

Senate Bill 423

By: Senators Smith of the 52nd, Hamrick of the 30th, Butterworth of the 50th, Douglas of the 17th, Mullis of the 53rd and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

To amend Article 1 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, relating to burglary, so as to provide for the new offense of smash and grab burglary; to provide for the elements of the offense; to provide for penalties; to amend Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to general provisions for offenses against public health and morals, so as to provide for smash and grab burglaries in the context of contributing to the delinquency of a minor; to amend Code Section 16-14-3 of the Official Code of Georgia Annotated, relating to definitions for the "Racketeer Influenced and Corrupt Organizations Act," so as to provide for smash and grab burglaries as racketeering activity; to amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, so as correct cross-references and add smash and grab burglary to the list of acts constituting a designated felony; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, relating to burglary, is amended by adding a new Code section to read as follows:

"16-7-2.

(a) As used in this Code section, the term 'retail establishment' means an establishment that sells goods or merchandise from a fixed location for direct consumption by a purchaser and includes establishments that prepare and sell meals or other edible products either for carry out or service within the establishment.

(b) A person commits the offense of smash and grab burglary when he or she intentionally and without authority enters a retail establishment with the intent to commit a theft and causes damage in excess of \$500.00 to such establishment without the owner's consent.

(c) A person convicted of smash and grab burglary shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than two nor more than 20

years, by a fine of not more than \$100,000.00, or both; provided, however, that upon a second or subsequent conviction, he or she shall be punished by imprisonment for not less than five nor more than 20 years, by a fine of not more than \$100,000.00, or both."

SECTION 2.

Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to general provisions for offenses against public health and morals, is amended by revising subsections (b) and (e) of Code Section 16-12-1, relating to contributing to the delinquency, unruliness, or deprivation of a minor, as follows:

"(b) A person commits the offense of contributing to the delinquency, unruliness, or deprivation of a minor when such person:

(1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in committing a delinquent act as such is defined in Code Section 15-11-2, relating to juvenile proceedings;

(2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in committing an act which would cause such minor to be found to be an unruly child as such is defined in Code Section 15-11-2, relating to juvenile proceedings;

(3) Willfully commits an act or acts or willfully fails to act when such act or omission would cause a minor to be found to be a deprived child as such is defined in Code Section 15-11-2, relating to juvenile proceedings;

(4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with, encourages, abets, or directs any minor to commit any felony which encompasses force or violence as an element of the offense or delinquent act which would constitute a felony which encompasses force or violence as an element of the offense if committed by an adult; ~~or~~

(5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2) of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section 16-11-121 to commit any felony which encompasses force or violence as an element of the offense or delinquent act which would constitute a felony which encompasses force or violence as an element of the offense if committed by an adult; or

(6) Knowingly and willfully hires, solicits, engages, contracts with, conspires with, encourages, abets, or directs any minor to commit any smash and grab burglary which would constitute a felony if committed by an adult."

"(e) A person convicted pursuant to paragraph (4), ~~or~~ (5), or (6) of subsection (b) or paragraph (1) of subsection (d.1) of this Code section shall be guilty of a felony and punished as follows:

(1) Upon conviction of the first offense, the defendant shall be imprisoned for not less than one nor more than ~~five~~ ten years; and

(2) Upon conviction of the second or subsequent offense, the defendant shall be imprisoned for not less than three years nor more than 20 years."

SECTION 3.

Code Section 16-14-3, relating to definitions for the "Racketeer Influenced and Corrupt Organizations Act," is amended by revising division (9)(A)(vii) as follows:

"(vii) Code Section 16-7-1, relating to burglary, or Code Section 16-7-2, relating to smash and grab burglary;"

SECTION 4.

Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, is amended by revising Code Section 15-11-30.3, relating to commission of designated felony act of burglary by a child 15 years of age or older, by adding a new subsection to read as follows:

"(e) The provisions of this Code section shall not apply to a smash and grab burglary."

SECTION 5.

Said chapter is further amended by revising Code Section 15-11-63, relating to designated felony acts, by striking "or" at the end of division (a)(2)(B)(ix), by striking the semicolon and inserting in its place "; or" at the end of division (a)(2)(B)(x), and by adding a new division to read as follows:

"(xi) Any violation of Code Section 16-7-2;"

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.